

Roger Allen Kirby, )  
 )  
 Plaintiff, ) Civil Action No. 0:12-3227-TMC  
 )  
 vs. ) **ORDER**  
 )  
 Sgt. Keith McBride; James Bar; Major )  
 James C. Dean; and Lt. Jack Brown, )  
 )  
 Defendants. )  
 )

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report and the record in this case, the court adopts the magistrate udge's Report (ECF No. 39) and incorporates it herein. It is therefore **ORDERED** that Defendants' motion to dismiss (ECF No. 24) is **GRANTED**, and Plaintiff's motion (ECF No. 27) is **DENIED**.

**IT IS SO ORDERED.**

s/Timothy M. Cain  
United States District Court Judge

October 29, 2013  
Anderson, South Carolina

#### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.